

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Atty SCS-1498-125
Dkt.

C# M#

GARDNER

Serial No. 09/806,007

TC/A.U. 2878

Filed: March 26, 2001

Examiner: Q. Le

Date: January 9, 2008

Title: IMPROVED PHOTOMULTIPLIER TUBE CIRCUIT

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

 Correspondence Address Indication Form Attached.

Fees are attached as calculated below:

| | | | | |
|--|----|----------------------|-------------|--------------------------------|
| Total effective claims after amendment | 19 | minus highest number | | |
| previously paid for | 20 | (at least 20) = | 0 x \$50.00 | \$0.00 (1202)/\$0.00 (2202) \$ |

| | | | | |
|------------------------------------|---|----------------------|--------------|--------------------------------|
| Independent claims after amendment | 1 | minus highest number | | |
| previously paid for | 3 | (at least 3) = | 0 x \$210.00 | \$0.00 (1201)/\$0.00 (2201) \$ |

If proper multiple dependent claims now added for first time, (ignore improper); add
 \$370.00 (1203)/\$185.00 (2203) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this
 paper and attachment(s)

| | |
|------------------------|---------------------------------------|
| One Month Extension | \$120.00 (1251)/\$60.00 (2251) |
| Two Month Extensions | \$460.00 (1252)/\$230.00 (2252) |
| Three Month Extensions | \$1050.00 (1253)/\$525.00 (2253) |
| Four Month Extensions | \$1640.00 (1254)/\$820.00 (2254) |
| Five Month Extensions | \$2,230.00 (1255)/\$1115.00 (2255) \$ |

Terminal disclaimer enclosed, add
 \$130.00 (1814)/ \$65.00 (2814) \$

Applicant claims "small entity" status. Statement filed herewith

| | | | |
|---|-----------------|----|------|
| Rule 56 Information Disclosure Statement Filing Fee | \$180.00 (1806) | \$ | 0.00 |
|---|-----------------|----|------|

| | | | |
|--------------------------|----------------|----|------|
| Assignment Recording Fee | \$40.00 (8021) | \$ | 0.00 |
|--------------------------|----------------|----|------|

| | | | |
|--------|--|----|------|
| Other: | | \$ | 0.00 |
|--------|--|----|------|

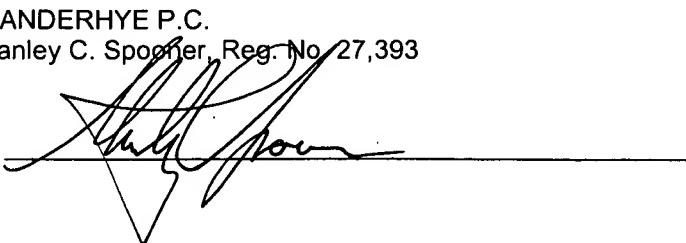
| | | |
|------------------|-----------|-------------|
| TOTAL FEE | \$ | 0.00 |
|------------------|-----------|-------------|

 CREDIT CARD PAYMENT FORM ATTACHED.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
 By Atty: Stanley C. Spooner, Reg. No. 27,393

Signature: 



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

GARDNER Atty. Ref.: 1498-125; Confirmation No. 1309

Appl. No. 09/806,007 TC/A.U. 2878

Filed: March 26, 2001 Examiner: Q. Le

For: IMPROVED PHOTOMULTIPLIER TUBE CIRCUIT

* * * * *

January 9, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

AMENDMENT

This Amendment is responsive to the Official Action mailed October 9, 2007 (Paper No. 20070927) and is believed to be timely filed as a three month response to a conventional Official Action.

The present action is not a restriction requirement which by the rules can have a one month response date (the proper PCT unity of invention restriction requirement was mailed on July 19 and responded to on August 19 with an election and traverse – the Examiner admits the same when he states that “The requirement is still determined proper and is therefore made FINAL.” See the current Official Action page 4, first full paragraph). The present action is not a valid Ex Parte Quayle action which warrants a two month response date because the Examiner admits that “the claims 5-7 have not been further treated on the merits.” (current Official Action, page 5, first full paragraph). Because this is the first action mentioning any objection to claims

5-7, applicant is entitled to a full three month period in which to prepare a responsive amendment before prosecution on the merits is closed.

Telephone interviews January 9, 2008

Applicant spoke with Examiner Le and explained the above problem and requested the Examiner to confirm that a three month response date to the official action was appropriate. Examiner Le refused. Applicant made several attempts to reach SPE Epps but her phone rang and then went to a dead line. Applicant then contacted the Director's Office and Director Richard Seidel (in the absence of Director Oberleitner) returned the undersigned's call.

In the call with Director Seidel, the sequence of events noted above was recited including the Examiner's admission that claims 5-7 would not be further treated on the merits and it was agreed that the applicant is entitled to have consideration on the merits of all elected claims (claims 1-7 were previously elected with traverse). Applicant's representative indicated that this interview would be made of record and that the official action would be treated as though it stated the correct expedited response period of three months (since it was neither a restriction requirement nor an Ex Parte Quayle action).

Also, the issue of the PTO rules of practice requiring that a single figure be identified in the specification and drawings as "figure" rather than "fig." or "fig. 1" was discussed (see the Official Action page 4, last 7 lines). Director Seidel indicated that he did not know the specific section and thought that it was stated to be a preference rather than a requirement. In view of the fact that SPE Epps indicated that she would provide support for this being a requirement, the issue was merely raised with Director Seidel and it was requested that she respond to the undersigned. The results of that interview are detailed subsequently.

GARDNER
Appl. No. 09/806,007
January 9, 2008

As a result, the filing of this Amendment on January 9, 2008 is completely responsive to the Official Action mailed on October 9, 2007. In the event that the Patent Office treats the Official Action as having a proper response period less than the above noted three month response period, the Patent Office is authorized to enter an appropriate one-month or two-month extension of time petition and petition fee.